

Message Text

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ACTION EA-10

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FM AMEMBASSY BANGKOK

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E.O. 11652: N/A

TAGS: EINV

SUBJECT: ALIEN BUSINESS LAW

REF: BANGKOK 13587, AUGUST 29, 1973 AND RELATED.

SUMMARY: AS NOVEMBER 25 DEADLINE APPROACHES FOR ALIEN FIRMS COVERED BY CATEGORY A OF ALIEN BUSINESS LAW TO TAKE ON MAJORITY THAI OWNERSHIP, CABINET REPORTEDLY TURNED DOWN REQUEST BY BRITISH EMBASSY FOR EXTENSION. US EMBASSY HAS BEEN RECEIVING INCREASING NUMBER OF REQUESTS BY AMERICAN FIRMS TO INFORM RTG OF THEIR NATIONALITY AND ENTITLEMENT TO NATIONAL TREATMENT PROVISIONS OF US-THAI TREATY. USG MAY AGAIN BE SUBJECT TO PRESS ALLEGATIONS OF FAVORITISM. END SUMMARY.

1. NOVEMBER 25, 1974 IS DEADLINE, UNDER PROVISIONS OF CLAUSE 30 OF ALIEN BUSINESS LAW (NEC DECREE 281 OF NOVEMBER 25, 1972) BY WHICH ALIEN COMPANIES FALLING UNDER CATEGORY A MUST TAKE ON MAJORITY THAI OWNERSHIP OR GO OUT OF BUSINESS. MINISTRY OF COMMERCE'S COMMERCIAL REGISTRATION DEPT. ISSUED ANNOUNCEMENT NOVEMBER 20 REMINDING SUCH FIRMS THAT VIOLATORS WILL BE SUBJECT TO HEAVY FINES AND LIQUID-
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ATION BY COURTS. NATION NEWSPAPER NOVEMBER 21 HEADLINED

REPORT THAT RTG CABINET HAD TURNED DOWN REQUEST BY BRITISH EMBASSY THAT EXTENSION TO DEADLINE BE GRANTED FOR "ANOTHER PERIOD OF TIME", SO THAT BRITISH FIRMS COULD ADJUST THEMSELVES SO AS TO SELL THEIR SHARES AT A REASONABLE PRICE. ACCORDING TO NATION, MINISTRY OF FOREIGN AFFAIRS RECOMMENDED THAT BRITISH REQUEST BE GRANTED, SINCE AMERICANS ARE STILL EXEMPT FROM ALIEN BUSINESS LAW WHILE US-THAI TREATY OF AMITY AND ECONOMIC RELATIONS IS IN EFFECT, BUT THAT CABINET REJECTED MFA'S RECOMMENDATION.

2. DURING PAST SEVERAL WEEKS, ON REQUEST OF AMERICAN FIRMS OPERATING HERE, AND IN ACCORDANCE WITH INFORMAL AGREEMENT WORKED OUT BETWEEN EMBASSY, MFA AND MINISTRY OF COMMERCE IN 1973, THIS EMBASSY HAS ISSUED APPROXIMATELY TWO DOZEN STATEMENTS TO THE MINISTRY OF COMMERCE, WITH COPIES TO MFA, THAT BASED ON DOCUMENTATION IN EMBASSY'S FILES, APPLICANT FIRMS ARE BELIEVED TO BE AMERICAN COMPANIES AND THUS ENTITLED TO NATIONAL TREATMENT PROVISIONS OF AER TREATY. IN EACH CASE, EMBASSY HAS INSISTED THAT APPLICANT FIRMS DEPOSIT WITH EMBASSY COPIES OF APPROPRIATE DOCUMENTS ATTESTING TO COMPANIES' PARENTAGE AND OWNERSHIP. SUCH REQUESTS HAVE BEEN INCREASING DURING PAST FEW DAYS, PERHAPS BECAUSE LOCAL AMCHAM HAS INFORMED ITS MEMBERSHIP OF THIS PROCEDURE.

3. EMBASSY HAS RECEIVED NO INDICATION THAT EMBASSY STATEMENTS ARE NOT BEING HONORED BY RTG. IN TWO CASES, DIRECTOR GENERAL OF COMMERCIAL REGISTRATION DEPARTMENT WROTE BACK TO REQUEST APPLICANT COMPANIES FURNISH HIM DIRECTLY WITH ADDITIONAL DOCUMENTATION, WHICH REQUESTS WERE REFERRED BY EMBASSY TO APPLICANT COMPANIES. NONE HAVE REPORTED ANY FURTHER DIFFICULTIES.

4. COMMENT: ALTHOUGH RTG SEEMS TO BE HONORING ITS COMMITMENTS UNDER AER TREATY, WE KNOW FROM PAST EXPERIENCE THAT, SINCE U.S. IS ONLY COUNTRY WITH WHICH RTG HAS TREATY GRANTING NATIONAL TREATMENT TO FOREIGN BUSINESSES, WE ARE VULNERABLE TO PRESS CHARGES OF FAVORITISM. ISSUE HAS BEEN QUITE DORMANT IN LOCAL PRESS FOR PAST SEVERAL MONTHS, BUT NATION EDITORIAL ON NOVEMBER 21, WHILE APPLAUDING CABINET DECISION TO REJECT BRITISH REQUEST, STATED, "WE DO NOT LIMITED OFFICIAL USE

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BLAME THE FOREIGN MINISTRY FOR MAKING SUCH RECOMMENDATION BECAUSE THE THAI-AMERICAN TREATY OF AMITY AND ECONOMIC RELATIONS PUTS AMERICAN FIRMS IN A PRIVILEGED POSITION. UNFORTUNATELY, WE ARE STUCK WITH THE CLAUSES OF THIS TREATY UNTIL 1978 AND THERE IS NOTHING WE CAN DO ABOUT IT." EMBASSY WILL REPORT ANY FURTHER DEVELOPMENTS. KINTNER

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